

Assembly Bill No. 261

CHAPTER 290

An act to amend Section 1569.884 of, and to add Section 1569.652 to the Health and Safety Code, relating to residential care facilities for the elderly.

[Approved by Governor September 9, 2013. Filed with Secretary of State September 9, 2013.]

LEGISLATIVE COUNSEL'S DIGEST

AB 261, Chesbro. Residential care facilities for the elderly: fees and charges.

Existing law provides for the licensure and regulation of residential care facilities for the elderly, as defined, by the State Department of Social Services, including, among other things, regulation of fees and charges. Existing law requires the admission agreement for a residential care facility for the elderly to contain specified elements. Under existing law, a violation of any of these provisions is punishable as a misdemeanor.

This bill would prohibit a residential care facility for the elderly from requiring advance notice for terminating an admission agreement upon the death of a resident, would prohibit the accrual of any fees once all personal property of the deceased is removed from the facility, and would prohibit the facility from impeding the removal of a deceased resident's personal property, as specified. The bill would require a residential care facility for the elderly to issue a refund of any fees paid in advance, covering the time after a deceased resident's personal property has been removed, within 15 days of that property being removed. The bill would also require a residential care facility for the elderly to, within 3 days of becoming aware of a resident's death, provide written notice to specified persons of the facility's policies regarding contract termination at death and refunds, and to include in the admission agreement the conditions under which those refunds will be issued. The bill would exempt from these provisions fees charged by a continuing care equity project or amounts deducted from entrance fee refunds or repayment, as defined.

By creating a new crime, this bill would impose a state-mandated local program. The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

The people of the State of California do enact as follows:

SECTION 1. Section 1569.652 is added to the Health and Safety Code, to read:

1569.652. (a) A residential care facility for the elderly shall not require advance notice for terminating an admission agreement upon the death of a resident. No fees shall accrue once all personal property belonging to the deceased resident is removed from the living unit.

(b) Upon the death of a resident, a licensee shall not impede the removal of the resident's personal property from the facility during reasonable hours by an individual or individuals authorized by the resident or the resident's responsible person, as identified in the admission agreement or attachment, or by a court-appointed executor or administrator of the decedent's estate, if applicable.

(c) A refund of any fees paid in advance covering the time after the resident's personal property has been removed from the facility shall be issued to the individual, individuals, or entity contractually responsible for the fees or, if the deceased resident paid the fees, to the resident's estate, within 15 days after the personal property is removed.

(d) If fees are assessed while a resident's personal property remains in a unit after the resident is deceased, a licensee shall, within three days of becoming aware of the resident's death, provide to the resident's responsible person, or other individual or individuals as identified in the admission agreement or attachment, written notice of the facility's policies regarding contract termination upon death and refunds.

(e) This section shall not apply to fees charged by a continuing care equity project as defined in paragraph (6) of subdivision (e) of Section 1771 or amounts deducted from entrance fee refunds or repayments described in paragraph (2) of subdivision (r) of Section 1771.

SEC. 2. Section 1569.884 of the Health and Safety Code is amended to read:

1569.884. The admission agreement shall include all of the following:

(a) A comprehensive description of any items and services provided under a single fee, such as a monthly fee for room, board, and other items and services.

(b) A comprehensive description of, and the fee schedule for, all items and services not included in a single fee. In addition, the agreement shall indicate that the resident shall receive a monthly statement itemizing all separate charges incurred by the resident.

(c) A facility may assess a separate charge for an item or service only if that separate charge is authorized by the admission agreement. If additional services are available through the facility to be purchased by the resident that were not available at the time the admission agreement was signed, a list of these services and charges shall be provided to the resident or the resident's representative. A statement acknowledging the acceptance or refusal to purchase the additional services shall be signed and dated by the

resident or the resident's representative and attached to the admission agreement.

(d) An explanation of the use of third-party services within the facility that are related to the resident's service plan, including, but not limited to, ancillary, health, and medical services, how they may be arranged, accessed, and monitored, any restrictions on third-party services, and who is financially responsible for the third-party services.

(e) A comprehensive description of billing and payment policies and procedures.

(f) The conditions under which rates may be increased pursuant to Section 1569.655.

(g) The facility's policy concerning family visits and other communication with residents, pursuant to Section 1569.313.

(h) The facility's policy concerning refunds, including the conditions under which a refund for advanced monthly fees will be returned in the event of a resident's death, pursuant to Section 1569.652.

(i) Conditions under which the agreement may be terminated.

(j) An explanation of the facility's responsibility to prepare a relocation evaluation, for each resident and a closure plan and to provide notice in the case of an eviction pursuant to Section 1569.682.

SEC. 3. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.